

# Notice of Allowability

Application No.

10/070,026

Examiner

Robert Shiao

Applicant(s)

HALLETT ET AL.

Art Unit

1626

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to responses filed on 10/21, 2003.
2. ☒ The allowed claim(s) is/are 11-20, now are 1-10.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                 |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>1103</u> . |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. <u>1103</u> | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                         |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material                 | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance        |
|  | 9 <input checked="" type="checkbox"/> Other <u>Abstract</u>                                |

### **DETAILED ACTION**

1. This application claims benefit of the foreign application:  
United Kingdom 9921150.0 with a filing date 09/07/1999.
2. Applicant's amendment including cancellation of claims 1-10, and addition of claims 11-20 in Paper No. 1003, dated October 21, 2003, is acknowledged. No new matter is found. Claims 11-20 are pending in the application.

### ***Responses to Amendment***

3. The rejection of claim 9 (now claim 18) under 35 U.S.C. 112, first paragraph, has been overcome in Paper No. 1003, dated October 21, 2003. The rejected subject matter "step (E)" has been deleted from the claim 18.

### ***EXAMINER'S AMENDMENT***

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with J. Eric Thies on November 14, 2003. The application has been amended as follows:

In the specification under the title, **insert**

--This application is a 371 of PCT/GB00/03350 filed on 08/30, 2000—

In claim 1, page 3, line 1-2, after "pyrrolidinyl", **delete** ", piperidinyl, piperazinyl, morpholinyl and thiomorpholinyl"

In claim 15, line 5, **delete** "6-(furan-3-yl)-3-[3-(morpholin-4-ylmethyl)phenyl]-3H-imidazo[4,5-b]-pyridine;"

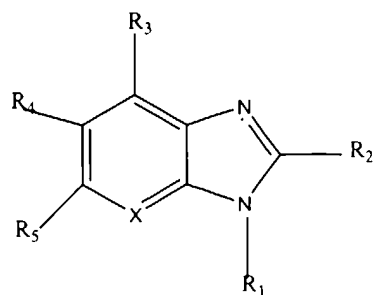
In claim 18, page 5, line 4, after "defined in claim", **delete** "1", and **insert** --11--

5. The amended Abstract has been entered.

### ***Reasons for Allowance***

6. The following is an examiner's statement of reasons for allowance:

Claims 11-20 are neither anticipated nor rendered obvious over the art of record, and therefore are allowable. This application relates to imidazole-pyridine derivatives as ligands for GABA receptors. The closest prior art is Bilodeau et al. 6,162,804, discloses benzoimidazole-pyridine derivatives as tyrosine kinase inhibitors of the formula,



, wherein the variable X represents C-H. The difference

between instant claimed compound and prior art is that the variable X of prior art

represents C-H, while instant compounds represent nitrogen (i.e., N) at the same position. Suggestion for modification of above record to obtain the instant claimed compounds and methods of use has not been found. Claims 11-20 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Shiao whose telephone number is (703) 308-4002. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (703) 308-4537. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3014 for regular communications and (703) 305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

*R. S.*

Robert Shiao, Ph.D.  
Patent Examiner  
Art Unit 1626

*For*

*Robert W. Ramsauer*

Joseph K. McKane  
Supervisory Patent Examiner  
Art Unit 1626

November 18, 2003